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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,772	09/18/2001	Toan Trinh	6009RXD	8802

27752            7590            05/02/2002  
THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER	
HARDEE, JOHN R	
ART UNIT	PAPER NUMBER
1751	2

DATE MAILED: 05/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. <b>09/954,772</b>	Applicant(s) <b>Trinh et al.</b>
	Examiner <b>John R. Hardee</b>	Art Unit <b>1751</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_
- 2a)  This action is FINAL.                    2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 124-145 is/are pending in the application.
- 4a) Of the above, claim(s) 134-145 is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) \_\_\_\_\_ is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims 124-133 are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.
- 12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - a)  All b)  Some\* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15)  Notice of References Cited (PTO-892)
- 16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19)  Notice of Informal Patent Application (PTO-152)
- 20)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 124-133, drawn to solvents, classified in class various classes and subclasses, subclass .
  - II. Claims 134-137 and 145, drawn to fabric softening compositions, classified in class 510, subclass 515+.
  - III. Claim 138, drawn to fabric softening compositions, classified in class 510, subclass 515+.
  - IV. Claims 139-140, drawn to a concentrate and a process of making same, classified in class various classes and subclasses, subclass .
  - V. Claims 141-144, drawn to a process of making solvent mixtures, classified in class various classes and subclasses, subclass .
  - VI. Claim 145, drawn to a fabric softening composition, classified in class 510, subclass 515+.

2. The inventions are distinct, each from the other because of the following reasons:  
Inventions I is distinct from Group II, III, V and VI, as the solvents of Group I are not required for the compositions or processes of the other Groups. Group I is distinct from Group IV,

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because Group IV recites components from Group I which are not recited in Group I; the scope of Group IV is not clear. Distinctness among the other groups is moot, as they were not elected.

Having elected one of Groups I-VI, further restriction is required 35 U.S.C. 121:

- A: Saturated aliphatic diols.
- B. Unsaturated aliphatic diols.
- C. Aromatic diols.
- D. Hydroxymonoethers.
- E. Alkoxylated diols.

3. These groups of chemical compounds are patentably distinct. A disclosure of one of the groups would not anticipate or make obvious any of the other groups.

4. A telephone call to Mr. Frank Turner on April 30, 2002 resulted in the election, with traverse, of Group IA, claims 124-133. Fabric softening compositions reciting non-zero amounts of **allowed diols** will be considered as well, if desired by applicant.

Claims 134-145 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. **Having elected one of Groups A-E, further restriction is required 35 U.S.C. 121:**

- a. Diols of 7 carbons.
- b. Diols of 8 carbons.
- c. Diols of 9 carbons.

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6. The inventions are distinct, each from the other because of the following reasons: These classes of compounds are separately patentable and fall into different classes and subclasses.

7. Because these inventions are distinct for the reasons given above and the search required for any one group is not required for any other group , restriction for examination purposes as indicated is proper.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (703) 305-5599. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (703) 308-4708.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



John R. Hardee

Primary Examiner

April 30, 2002